

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

FILED BY *[Signature]* D.C.
05 MAY 11 PM 3:36

MARVIN RAY SPEARS,

ROBERT R. DI TROIO
CLERK, U.S. DIST. CT.
W.D. OF TN, MEMPHIS

Plaintiff,

v.

No. 03-2961-B

CANADIAN NATIONAL/ILLINOIS
CENTRAL RAILROAD, f/k/a
ILLINOIS CENTRAL RAILROAD,

Defendant.

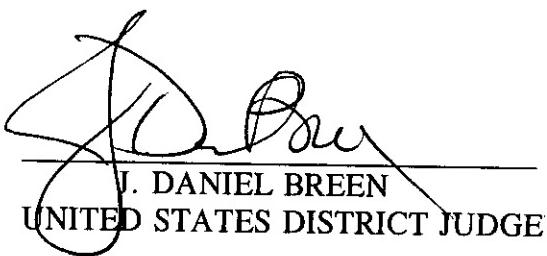
ORDER DIRECTING PARTIES TO SUBMIT ADDITIONAL BRIEFS

On April 7, 2005, the Court entered an order holding Defendant's motion for summary judgment and/or motion to dismiss in abeyance. The basis of the order was that the district court clerk had failed to obtain a certified copy of the proceedings involving the Plaintiff from the National Railway Adjustment Board, in accordance with 45 U.S.C. § 153 First (q). Thus, the Court determined that the Defendant's motion for summary judgment and/or motion to dismiss would be held in abeyance until the Court received a copy of the RLAB record. On May 9, 2005, a record of the proceedings on which the National Mediation Board based its action in Public Law Board No. 6131, Award No. 9, involving the Plaintiff, Marvin Ray Spears, was filed with the clerk.

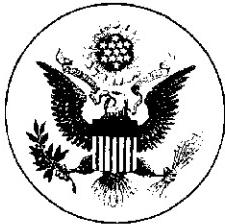
Inasmuch as the record of the RLAB has been submitted to the clerk's office, the parties are hereby directed to file, if they so desire, any additional briefing within 30 days of the entry of this order to reflect this record. Having previously reviewed the parties pleadings, a number

of references were made to the record, parts of which were probably already in the possession of the parties. Nonetheless, in order to allow both the Plaintiff and the Defendant full opportunity to rely and/or cite to the record before the Court, such additional briefings will be permitted. If no such additional briefs are submitted within the 30 day period, the Court will proceed to consider the record, including the RLAB record, which is presently before the Court.

IT IS SO ORDERED this 11th day of May, 2005.



J. DANIEL BREEN
UNITED STATES DISTRICT JUDGE



Notice of Distribution

This notice confirms a copy of the document docketed as number 38 in case 2:03-CV-02961 was distributed by fax, mail, or direct printing on May 13, 2005 to the parties listed.

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Honorable J. Breen
US DISTRICT COURT